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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/042,766

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Roger deLusignan

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02/27/2006

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER

KOPPIKAR, VIVEK D

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/042,766	Applicant(s) DELUSIGNAN ET AL.	
	Examiner Vivek D. Koppikar	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/8/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>all received</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

1. Claims 1-13 have been examined in this application. This communication is the first action on the merits. All received Information Disclosure Statements (IDS) have been acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 6,322,504 to Kirshner in view of US Patent Application Publication 2002/0072933 to Vonk.

(A) As per claim 1, a method for providing patient-specific best medical practices recommendations for a population of patients suspected of having individual members with a risk for at least one preselected medical condition using a central system adapted to customize the recommendations for the individual members (Kirshner: Abstract), wherein said method comprises the steps of:

a) selecting a population of patients that is suspected of having a higher than normal risk for the preselected medical condition (Kirshner: Col. 6, Ln. 22-28);

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- b) collecting personal patient information about the individual members that comprises factors that indicate risk of having or developing the preselected medical condition (Kirshner: Col. 6, Ln. 6-19);
- c) processing the personal patient information by the central system to provide a patient analysis outcome that reflects risk assessment of the preselected medical condition (Kirshner: Col. 6, Ln. 67-Col. 7, Ln. 7);
- d) collecting patient management information about the individual members that comprises a medical history relevant to the preselected medical condition (Kirshner: Col. 8, Ln. 49-51); and
- e) processing the patient management information by the central system to provide a recommendations outcome (Kirshner: Col. 17, Ln. 21-39). Kirshner does not teach that the recommendations outcome reflects the best medical practices for future management of the individual members relative to the medical condition, however, this feature is well known in the health care industry as illustrated by Vonk (Section [004]). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the method of Kirshner with the aforementioned feature from Vonk with the motivation of providing a patient with advice that is in accordance with the best medical practices in the health care industry, as recited in Vonk (Section [0004]).

(B) As per claim 2, in the combined method of Kirshner in view of Vonk steps d) and e) are repeated at least once (Kirshner: Col. 5, Ln. 47-54). (Users log in multiple times and use the system, therefore, the steps of collecting patient information and providing recommendations occur multiple times or are repeated in the combined system of Kirshner in view of Vonk.)

(C) As per claim 3, in the combined method of Kirshner in view of Vonk the preselected medical condition is coronary artery disease (Kirshner: Col. 1, Ln. 17-21).

(D) As per claims 4-6, the combined method of Kirshner in view of Vonk does not teach that the preselected medical condition is diabetes, pulmonary disease or congestive heart failure, however, Kirshner teaches that its system can be used to determine the risk of developing diseases (Kirshner: Col. 1, Ln. 7-14). The examiner takes the position that diabetes, pulmonary disease and congestive heart failure are encompassed by, and within the scope of the term "disease" as used in Kirshner.

(E) As per claim 7, in the combined method of Kirshner in view of Vonk the recommendations outcome is sent to a healthcare provider via mail, e-mail, or is accessible by a healthcare provider over an internet web page (Kirshner: Col. 2, Ln. 16-30).

(F) As per claim 8, in the combined method of Kirshner in view of Vonk the central system is pre-programmed with algorithms that allow for customization of output based on professional associations' evidence-based best practices according to the individual member's patient management information (Kirshner: Col. 15, Ln. 64-Col. 16, Ln. 3).

(G) As per claim 9, in the combined method of Kirshner in view of Vonk the personal patient information is collected using a risk assessment survey that is completed by the individual member (Kirshner: Col. 6, Ln. 6-19).

(H) As per claim 10, in the combined method of Kirshner in view of Vonk the patient management information is collected using data collection tool that is completed by a healthcare provider (Kirshner: Col. 5, Ln. 42-45).

(I) As per claim 11, Kirshner teaches a system for providing patient-specific best medical practices recommendations for a population of patients suspected of having individual members with the risk for at least one preselected medical condition comprising a central system adapted to customize the recommendations for the individual members (Kirshner: Abstract), or and said system comprises:

- a) a CPU programmed to receive and analyze personal patient information that comprises factors that indicate risk of having or developing the preselected medical condition (Kirshner: Col. 2, Ln. 16-30);
- b) a first output device adapted to provide patient analysis outcome that reflects risk assessment of the preselected medical condition (Kirshner: Col. 2, Ln. 16-30);
- c) a CPU programmed to receive and analyze patient management information about the individual members that comprises a medical history relevant to the preselected medical condition (Kirshner: Col. 2, Ln. 16-30); and
- d) a second output device, wherein said second output device is the same or different than the first output device, adapted to provide recommendations outcome (Kirshner: Col. 17, Ln. 21-39) that reflects best medical practices for future management of the individual members relative to the medical condition. Kirshner does not teach that the recommendations outcome reflects the best medical practices for future management of the individual members relative to the medical condition, however, this feature is well known in the health care industry as illustrated by Vonk (Section [004]). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the system of Kirshner with the aforementioned feature from

Vonk with the motivation of providing a patient with advice that is in accordance with the best medical practices in the health care industry, as recited in Vonk (Section [0004]).

(J) As per claim 12, the combined system of Kirshner in view of Vonk further comprises at least one central server that is accessible on line and at least one remote access terminal (Kirshner: Col. 2, Ln. 16-30).

(K) As per claim 13, in the combined system of Kirshner in view of Vonk the output device of (b), (d) or both (b) and (d) further comprises a communications interface capable of transmitting output on-line (Kirshner: Col. 2, Ln. 16-30).

Conclusion

4. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone number for this group is (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

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direct.uspto.gov. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,


Vivek Koppikar

2/8/2006


C. LUKE GILLIGAN
PATENT EXAMINER